

REMARKS

The rejection is premised on the improbable proposition that a rationale to modify a reference which does not teach the claimed invention could be supplied by a second reference which also teaches away in the same way as the first reference. In other words, two references that teach not doing what is claimed are somehow combined to teach what is claimed. It is respectfully submitted that a *prima facie* rejection is not made out.


Khoury, like Parkinson and Lowrey, all teach using programmable phase change memory elements that change between amorphous and crystalline phases. Khoury, in particular, suggests that better current flow can be obtained in the crystalline phase. But he explicitly teaches that the way the memory works is to reversibly switch between crystalline and amorphous phases. See paragraphs 5, 8, 13, and 14, as examples. Thus, Khoury, like all of the other cited references, does not teach a substantially crystalline, non-switching ovonic material. Instead, he teaches a conventional ovonic material that switches between amorphous and crystalline phases. The fact that he mentions that there is less resistance in the crystalline phase is noted, but the rationale to modify goes against the very teaching of Khoury himself. If it was so good to stay in the crystalline phase, why did Khoury not stay in the crystalline phase? The answer is that he saw no reason to do so. And this is the fundamental defect in the rejection. It combines two references that saw no reason to do what is claimed and attempts to add them together and come up with something different than their sum. This is impermissible and logically and legally untenable.

The problem Khoury would see is why would I want to make a memory cell which only conducts? Then it could not store any information. He would have no reason to believe that it would be good to make a cell which includes a non-changing memory element. The claim requires a combination of a substantially crystalline, non-switching ovonic material and a switching phase change material. No such structure is suggested. The fact that Parkinson or anyone else suggested a non-switching amorphous material does not tell how or why to make a non-switching, crystalline material.

Therefore, the rejection should be reconsidered.

Respectfully submitted,

Date: April 3, 2007



---

Timothy M. Trop, Reg. No. 28,994  
TROP, PRUNER & HU, P.C.  
1616 South Voss Road, Suite 750  
Houston, TX 77057-2631  
713/468-8880 [Phone]  
713/468-8883 [Fax]

Attorneys for Intel Corporation